

**Introduced by Senator Alarcon**

February 24, 2006

---

An act to amend Section 51182 of the Government Code, and to amend Section 4291 of the Public Resources Code, relating to fire protection and prevention.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1837, as introduced, Alarcon. Fire protection and prevention: firebreaks.

(1) Existing law requires a person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material, that is in a locally designated very high fire hazard severity zone, to undertake specified actions with respect to fire prevention and protection, including maintaining around and adjacent to the occupied dwelling or occupied structure a firebreak, as specified, for distance of not less than 30 feet, or to the property line, whichever is nearer. Existing law requires the person also to maintain around and adjacent to the occupied dwelling or occupied structure additional fire protection or firebreaks, as specified, that are located within 100 feet of the dwelling or structure or to the property line, or at a greater distance if required by state law, or local ordinance, rule, or regulation. A violation of these requirements is a crime.

Existing law imposes similar requirements on a person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material. A violation of these requirements is a crime.

This bill instead would require the person to maintain a firebreak, as specified, of 200 feet, or to the property line, whichever is nearer, or at a greater distance if required by state law, or local ordinance, rule, or regulation, thereby changing the definition of a crime and imposing a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 51182 of the Government Code is  
2 amended to read:

3 51182. (a) A person who owns, leases, controls, operates, or  
4 maintains ~~any~~ an occupied dwelling or occupied structure in,  
5 upon, or adjoining ~~any~~ a mountainous area, forest-covered land,  
6 brush-covered land, grass-covered land, or ~~any~~ land that is  
7 covered with flammable material, which area or land is within a  
8 very high fire hazard severity zone designated by the local  
9 agency pursuant to Section 51179, shall at all times do all of the  
10 following:

11 ~~(1) Maintain around and adjacent to the occupied dwelling or~~  
12 ~~occupied structure a firebreak made by removing and clearing~~  
13 ~~away, for a distance of not less than 30 feet on each side thereof~~  
14 ~~or to the property line, whichever is nearer, all flammable~~  
15 ~~vegetation or other combustible growth. This paragraph does not~~  
16 ~~apply to single specimens of trees or other vegetation that is~~  
17 ~~well-pruned and maintained so as to effectively manage fuels and~~  
18 ~~not form a means of rapidly transmitting fire from other nearby~~  
19 ~~vegetation to any dwelling or structure.~~

20 ~~(2)~~

21 (1) Maintain around and adjacent to the occupied dwelling or  
22 occupied structure ~~additional fire protection or firebreaks a~~  
23 ~~firebreak~~ made by removing *and clearing away* all brush,  
24 flammable vegetation, or *other* combustible growth, that is

located within ~~100~~ 200 feet from the occupied dwelling or occupied structure or to the property line, *whichever is nearer*, or at a greater distance if required by state law, or local ordinance, rule, or regulation. This section does not prevent an insurance company that insures an occupied dwelling or occupied structure from requiring the owner of the dwelling or structure to maintain a firebreak of more than ~~100~~ 200 feet around the dwelling or structure if a hazardous condition warrants ~~such~~ a firebreak of a greater distance. ~~Grass and other vegetation located more than 30 feet from the dwelling or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.~~ This paragraph does not apply to single specimens of trees or other vegetation that is well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a dwelling or structure.

~~(3)~~

(2) Remove that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe.

~~(4)~~

(3) Maintain any tree adjacent to or overhanging any building free of dead or dying wood.

~~(5)~~

(4) Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

~~(6)~~

(5) Prior to constructing a new dwelling or structure that will be occupied or rebuilding an occupied dwelling or occupied structure damaged by a fire in that zone, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the ~~building~~ dwelling or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all

1 applicable state and local building standards, including those  
2 described in subdivision (b) of Section 51189, and shall provide  
3 a copy of the report, upon request, to the property insurance  
4 carrier that insures the dwelling or structure.

5 (b) A person is not required under this section to maintain ~~any~~  
6 a clearing on any land if that person does not have the legal right  
7 to maintain the clearing, nor is ~~any~~ a person required to enter  
8 upon or to damage property that is owned by any other person  
9 without the consent of the owner of the property.

10 SEC. 2. Section 4291 of the Public Resources Code is  
11 amended to read:

12 4291. A person ~~that~~ *who* owns, leases, controls, operates, or  
13 maintains a building or structure in, upon, or adjoining ~~any~~ a  
14 mountainous area, forest-covered lands, brush-covered lands,  
15 grass-covered lands, or ~~any~~ land that is covered with flammable  
16 material, shall at all times do all of the following:

17 ~~(a) Maintain around and adjacent to the building or structure a~~  
18 ~~firebreak made by removing and clearing away, for a distance of~~  
19 ~~not less than 30 feet on each side of the building or structure or to~~  
20 ~~the property line, whichever is nearer, all flammable vegetation~~  
21 ~~or other combustible growth. This subdivision does not apply to~~  
22 ~~single specimens of trees or other vegetation that is well-pruned~~  
23 ~~and maintained so as to effectively manage fuels and not form a~~  
24 ~~means of rapidly transmitting fire from other nearby vegetation~~  
25 ~~to any building or structure.~~

26 ~~(b)~~

27 (a) Maintain around and adjacent to the building or structure  
28 ~~additional fire protection or a~~ firebreak made by removing *and*  
29 *clearing away* all brush, flammable vegetation, or *other*  
30 combustible growth, that is located within ~~100~~ 200 feet from the  
31 building or structure or to the property line, *whichever is nearer*;  
32 or at a greater distance if required by state law, or local  
33 ordinance, rule, or regulation. This section does not prevent an  
34 insurance company that insures a building or structure from  
35 requiring the owner of the building or structure to maintain a  
36 firebreak of more than ~~100~~ 200 feet around the building or  
37 structure. ~~Grass and other vegetation located more than 30 feet~~  
38 ~~from the building or structure and less than 18 inches in height~~  
39 ~~above the ground may be maintained where necessary to stabilize~~  
40 ~~the soil and prevent erosion. This subdivision does not apply to~~

1 single specimens of trees or other vegetation that is well-pruned  
2 and maintained so as to effectively manage fuels and not form a  
3 means of rapidly transmitting fire from other nearby vegetation  
4 to a ~~dwelling building~~ or structure.

5 (e)

6 (b) Remove that portion of any tree that extends within 10 feet  
7 of the outlet of a chimney or stovepipe.

8 (d)

9 (c) Maintain any tree adjacent to or overhanging a building  
10 free of dead or dying wood.

11 (e)

12 (d) Maintain the roof of a structure free of leaves, needles, or  
13 other dead vegetative growth.

14 (f)

15 (e) Prior to constructing a new building or structure or  
16 rebuilding a building or structure damaged by a fire in such an  
17 area, the construction or rebuilding of which requires a building  
18 permit, the owner shall obtain a certification from the local  
19 building official that the ~~dwelling building~~ or structure, as  
20 proposed to be built, complies with all applicable state and local  
21 building standards, including those described in subdivision (b)  
22 of Section 51189 of the Government Code, and shall provide a  
23 copy of the certification, upon request, to the insurer providing  
24 course of construction insurance coverage for the building or  
25 structure. Upon completion of the construction or rebuilding, the  
26 owner shall obtain from the local building official, a copy of the  
27 final inspection report that demonstrates that the ~~dwelling~~  
28 *building* or structure was constructed in compliance with all  
29 applicable state and local building standards, including those  
30 described in subdivision (b) of Section 51189 of the Government  
31 Code, and shall provide a copy of the report, upon request, to the  
32 property insurance carrier that insures the ~~dwelling building~~ or  
33 structure.

34 (g)

35 (f) Except as provided in Section 18930 of the Health and  
36 Safety Code, the director may adopt regulations exempting  
37 structures with exteriors constructed entirely of nonflammable  
38 materials, or conditioned upon the contents and composition of  
39 same, he or she may vary the requirements respecting the  
40 removing or clearing away of flammable vegetation or other

1 combustible growth with respect to the area surrounding those  
2 structures.

3 No exemption or variance shall apply unless and until the  
4 occupant thereof, or if there is not an occupant, the owner  
5 thereof, files with the department, in a form as the director shall  
6 prescribe, a written consent to the inspection of the interior and  
7 contents of the structure to ascertain whether this section and the  
8 regulations adopted under this section are complied with at all  
9 times.

10 ~~(h)~~

11 (g) The director may authorize the removal of vegetation that  
12 is not consistent with the standards of this section. The director  
13 may prescribe a procedure for the removal of that vegetation and  
14 make the expense a lien upon the building, structure, or grounds,  
15 in the same manner that is applicable to a legislative body under  
16 Section 51186 of the Government Code.

17 ~~(i)~~

18 (h) As used in this section, “person” means a private  
19 individual, organization, partnership, limited liability company,  
20 or corporation.

21 SEC. 3. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the  
26 penalty for a crime or infraction, within the meaning of Section  
27 17556 of the Government Code, or changes the definition of a  
28 crime within the meaning of Section 6 of Article XIII B of the  
29 California Constitution.